

## ***Meyers v. Cincinnati Board of Education:* Reckless Educators Cannot Claim Government Immunity in Child's Suicide**

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A number of alarming statistics have emerged in recent years concerning youth suicides. For children and young adults ages 10–24, there was a [48% increase in deaths by suicide](#) between 2007 and 2018—and that's just in Ohio, which falls below the national average.<sup>1</sup> For Black youth, self-reported suicide attempted have [increased 73% over the last 25 years](#), and the suicide death rate among Black youth is increasing faster than that of any other racial or ethnic group.<sup>2</sup> The crisis has been recognized as so dire that the Congressional Black Caucus created an Emergency Taskforce on Black Youth Suicide and Mental Health.<sup>3</sup> Complicating the situation further is a “[complex array of socio-cultural factors](#), including racism and discrimination”<sup>4</sup> and “cultural mistrust”<sup>5</sup> borne from the historical fact that [Black men have been far more likely to be involuntarily hospitalized for mental illness](#).<sup>6</sup>

But these statistics and sociological buzzwords—while certainly painting a grim picture—feel abstract. An eight-year-old boy, a third grader, being bullied so extensively and pushed to a place of hopelessness so deep that he hung himself, however, is so visceral and concrete a tragedy that a deeper legal examination of the systems and individuals responsible is more than warranted. In its scathing December 29, 2020, opinion, the Sixth Circuit agreed.

In [Meyers v. Cincinnati Board of Education](#), the Sixth Circuit took a strong stance in holding educators responsible for their failure to mitigate or prevent the bullying and increasingly violent attacks that led to the January 26, 2017, suicide of eight-year-old Gabriel Taye, a third-grader at Carson Elementary

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<sup>1</sup>Sally C. Curtin, *State Suicide Rates Among Adolescents and Young Adults Aged 10–24: United States, 2000–2018*, 69 NAT'L VITAL STAT. REP., Sep. 11, 2020 [https://perma.cc/D9TX-VRFD].

<sup>2</sup>BONNIE WATSON COLEMAN, CONGRESSIONAL BLACK CAUCUS EMERGENCY TASK FORCE ON BLACK YOUTH SUICIDE AND MENTAL HEALTH, RING THE ALARM: THE CRISIS OF BLACK YOUTH SUICIDE IN AMERICA (2019) [https://perma.cc/77C3-7D8C].

<sup>3</sup>*Id.*

<sup>4</sup>Sidney H. Hankerson, Derek Suite & Rahn K. Bailey, *Treatment Disparities Among African American Men With Depression: Implications for Clinical Practice*, 26 J. OF HEALTH CARE FOR THE POOR AND UNDERSERVED 21, 21–34 (2015) [https://perma.cc/V797-9MNB].

<sup>5</sup>*Id.*

<sup>6</sup>Jayne O'Donnell, “We’re losing our kids”: Black youth suicide rate rising far faster than whites; coronavirus, police violence deepen trauma, USA TODAY (Jun. 7, 2020), https://www.usatoday.com/story/news/health/2020/06/07/coronavirus-police-violence-boost-risks-rising-black-youth-suicide/2300765001/ [https://perma.cc/R25P-RS86].

School in Cincinnati, Ohio.<sup>7</sup> Gabriel's parents, Cornelia Reynolds and Benyam Taye, allege state law tort claims of wrongful death, intentional infliction of serious emotional distress, negligent infliction of emotional distress, loss of consortium, and failure to report child abuse.<sup>8</sup> The defendants are the Cincinnati Board of Education ("the Board"), former Cincinnati Public Schools ("CPS") superintendent Mary Ronan, former Carson Elementary principal Ruthenia Jackson, former Carson Elementary assistant principal Jeffrey McKenzie, and former Carson Elementary school nurse Margaret McLaughlin.<sup>9</sup> In a unanimous three-judge panel, the Sixth Circuit rejected the defendants' request to throw out these claims under a shield of government immunity.<sup>10</sup> This opinion is an important step in holding educators responsible for recklessly ignoring warning signs in suicidal students, failing to protect students from physical and mental abuse on school grounds, and deliberately keeping parents in the dark as to the extent of the bullying their children face.

Two days before Gabriel's death, another Carson Elementary student attacked him in a school bathroom, knocking him unconscious.<sup>11</sup> Despite school procedures requiring the school to seek emergency medical attention if a student is unconscious for more than one minute, Jackson and McKenzie failed to call 911 even as Gabriel lay unconscious on the ground for seven minutes.<sup>12</sup> An hour after the incident, the school informed Gabriel's mother that he had "fainted" but did not require any additional medical attention.<sup>13</sup> They neglected to mention that the injury had resulted from a violent attack by another student—all of which was caught on tape.<sup>14</sup>

Defendants argued that they are entitled to government immunity under Ohio Rev. Code § 2744 because their behavior in relation to Gabriel's ongoing bullying was not "reckless."<sup>15</sup> The Sixth Circuit vehemently disagreed, citing the litany of incidents of aggressive behavior that Gabriel experienced from first through third grade at Carson Elementary. The bathroom incident that occurred two days before his death was one of twelve incidents on record with the school—incidents that the school did not include in its state-mandated semiannual report.<sup>16</sup> In fact, Carson Elementary reported zero bullying incidents in the fall of 2016 and only four in the spring of 2017, and its 2017 report made no mention of Gabriel Taye being beaten and left unconscious in the bathroom of the

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<sup>7</sup> *Meyers v. Cincinnati Bd. of Educ.*, No. 18-3974 (6th Cir. Dec. 29, 2020) [<https://perma.cc/7ZFY-GZG2>].

<sup>8</sup> *Id.* at \*2.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at \*3.

<sup>11</sup> *Id.* at \*5–6.

<sup>12</sup> *Id.* at \*13.

<sup>13</sup> *Meyers*, No. 18-3974, at \*13.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at \*2.

<sup>16</sup> *Id.* at \*7.

school.<sup>17</sup> Considering the enormous amount of evidence presented, the Sixth Circuit concluded that Jackson and McKenzie's behavior "exemplifies the very definition of recklessness."<sup>18</sup> Defendants lied to Gabriel's parents, underplayed the severity of the bullying, failed to discipline his aggressors, did not notify teachers of the violent attacks taking place, took no action to prevent future attacks, made false reports about the bullying at the school, and "prevented Taye's parents from fully understanding Taye's horrifying experience at Carson Elementary until it was too late."<sup>19</sup> Their recklessness is unmistakable.

The Court rejected the defendants' comparison to *Tumminello v. Father Ryan High School, Inc.*, in which plaintiff Patricia Tumminello failed to demonstrate that her son's suicide was a reasonably foreseeable risk of the school administration's failure to address the bullying he experienced at school.<sup>20</sup> In *Tumminello*, the Court found that because school administrators were unaware of the extent and nature of the student's bullying, there was no causal connection, but it asserted that "if a school is aware of a student being bullied but does nothing to prevent the bullying, it is reasonably foreseeable that the victim of the bullying might resort to self-harm, even suicide."<sup>21</sup> But Gabriel's case is unlike that in *Tumminello*. Not only were school administrators aware of the extent of the bullying; they were present for several incidences of said bullying, actively concealed the extent of the issue from Gabriel's parents, and deliberately omitted records of the bullying from state-mandated reports.

An eight-year-old's suicide is shocking, and rightly so. But there is an increasing movement to start suicide prevention as early as elementary school, particularly because there has been a [92% increase in hospitalizations](#) for suicide attempts and ideation for children between the ages of 5 and 18 years old from 2007 to 2015.<sup>22</sup> These deaths are preventable, especially when school administrations follow their own policies—and their own common sense—and report incidences of bullying, take appropriate measures to address and prevent bullying in schools, and keep parents apprised of issues with bullying and physical violence in schools. [Research shows](#) that there is a critical need in schools for guidance on strategies for effective suicide prevention and intervention.<sup>23</sup>

This Sixth Circuit decision is important not just for bringing much-needed attention to the rising problem of youth suicide, but also because it clarifies the difference between negligent and reckless conduct on the part of educators and school administrators in the face of bullying. This was not an issue of

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at \*16–17.

<sup>19</sup> *Meyers*, No. 18-3974, at \*16–17.

<sup>20</sup> *Tumminello v. Father Ryan High Sch., Inc.*, 678 F. App'x 281, 288 (6th Cir. 2017).

<sup>21</sup> *Id.*

<sup>22</sup> Michelle Pugle, *Why Some Experts Think Suicide Prevention Should Begin in Elementary School*, HEALTHLINE (June 23, 2020) [<https://perma.cc/5JJ2-NX5B>].

<sup>23</sup> Dewey G. Cornell, *Do U.S. Laws Go Far Enough To Prevent Bullying at School?*, AM. PSYCHOL. ASS'N (FEB. 2016) [<https://perma.cc/9D67-6PK8>].

overwhelmed, overworked teachers failing to prevent the inevitable. It was a reckless and deliberate oversight of severe bullying and physical violence that, coupled with the deception of Gabriel's parents, led to the foreseeable consequence of his suicide. The Court has shown that schools must take reasonable action in regard to youth bullying and risks of suicide. Increased school and teacher responsibility for bullying and violence will not solve the issue of youth suicides, but it is clear that such accountability in this case might have saved Gabriel's life. Let us hope the justice system continues on this path and prevents more tragedy in the future.